

BEFORE THE INVESTIGATIVE PANEL OF THE
FLORIDA JUDICIAL QUALIFICATIONS COMMISSION
STATE OF FLORIDA

INQUIRY CONCERNING A JUDGE, NO. 05-131
RE: JUDGE BRANDT C. DOWNEY III

MOTION TO STRIKE

COMES NOW, Brandt C. Downey III, (hereinafter referred to as “Respondent”), and files this his Motion to Strike the last two (2) sentences of paragraph 6 and the last sentence in paragraph 8 of the JQC’s Notice of Formal Charges and as grounds state as follows:

1. Attached hereto is a copy of a portion of the transcript of the sentencing of Mr. Wilson of April 8, 2005. The sentencing portion commences on page 24. Nowhere in the transcript did the undersigned state that there was “insufficient evidence” of a sleeping juror and nowhere during the sentencing were any representations made concerning any knowledge that the undersigned may have had concerning the sleeping juror. The allegation that the undersigned ruled that there was insufficient evidence of a sleeping juror is simply inaccurate.

2. The last sentence in paragraph 8 is likewise inaccurate and in conflict with the actual public record. Respondent recused himself from the Wilson case when it became obvious to him that he would be a witness in any hearing on a motion for new trial.

WHEREFORE, for the reasons above stated, Respondent moves that portions of paragraph 6 and 8 be stricken, or, in the alternative, be amended to correct obvious factual errors therein contained.

BRANDT C. DOWNEY III
Circuit Judge, Sixth Judicial Circuit
Pinellas County Courthouse
315 Court Street, Room 421
Clearwater, FL 33756

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the original and seven copies were filed by regular U.S. Mail to Thomas D. Hall, Clerk, Supreme Court of Florida, 500 South Duval Street, Tallahassee, FL 32399-1927 with a copy sent via e-mail to e-file@flcourts.org; and a copy furnished by regular U.S. Mail to E. Lanny Russell, Esquire, 225 Water Street, Suite 1800, Jacksonville, FL 32202 and to Thomas C. MacDonald, Jr., Esquire, General Counsel, JQC, 1904 Holly Lane, Tampa, FL 33629, this ____ day of _____ 2006.

BRANDT C. DOWNEY III